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ii. An associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or

iii. A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years recent experience in loss reserving.

(b) Failure to file the statement of opinion in the form and time frame specified in this subchapter will subject the company to the penalties described in N.J.S.A. 17:23-2.

(c) The statement of opinion must consist of a paragraph identifying the actuary, a scope paragraph describing the subjects on which an opinion is to be expressed and describing the scope of the actuary's review, and an opinion paragraph expressing the conclusions of the actuary. One or more additional paragraphs may be needed in individual cases if the actuary must qualify the opinion or explain some aspect of the annual statement which is not already sufficiently explained in the annual statement.

(d) N.J.A.C. 11:1-21.3 and 11:1-21.4 provide examples for illustrative purposes, of language which in typical circumstances would be included in the remainder of the statement of opinion. The illustrative language should be modified as needed to meet the circumstances of a particular case, and the actuary should in any case use language which clearly expresses his or her professional judgment.

Amended by R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

11:1-21.2 Identification paragraph

(a) The opening paragraph must indicate the actuary's relationship to the company.

1. For a company actuary, the opening paragraph of the opinion should contain the sentence: "I, (name and title of actuary), am an officer (employee) of (named insurer) and meet the requirements of a qualified actuary as set forth in N.J.A.C. 11:1-21.1(a)."

2. For a consultant, the opening paragraph of the opinion should contain the sentence: "I, (name and title of consultant), am associated with the firm of (name of firm if applicable). I am a fellow of the Casualty Actuarial Society meeting the requirements of a qualified actuary and have been retained by the (name of insurer) with regard to loss and loss adjustment expense reserves."

Amended by R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

11:1-21.3 Scope paragraph

(a) The scope paragraph must contain a sentence such as the following: "I have examined the assumptions and meth-

ods used in determining reserves as shown in the annual statement of the company as prepared for filing with New Jersey Department of Banking and Insurance, as of December 31, 20____." The paragraph should list those items and amounts with respect to which the actuary is expressing an opinion. The list must include but not necessarily be limited to:

1. Reserve amount for unpaid losses.
2. Reserve amount for unpaid loss adjustment expenses.

(b) If the actuary has examined the underlying records and/or summaries, the scope paragraph must also include a sentence such as the following: "My examination included such review of the assumptions and methods used and of the underlying basis records and/or summaries and such tests and calculations as I considered necessary."

(c) If the actuary has not examined the underlying records and/or summaries, but has relied upon those prepared by the company, the scope paragraph must include a sentence such as one of the following:

1. "I relied upon underlying records and/or summaries prepared by the responsible officers or employees of the company or group to which it belongs. In other respects, my examination included such review of the assumptions and methods used and such tests of the calculations as I considered necessary."

2. "I relied upon (name of firm) for the accuracy of the underlying records and/or summaries. In other respects, my examination included such review of the underlying assumptions and methods used and such tests of the calculations as I considered necessary."

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).
In (a), substituted "20" for "19".

11:1-21.4 Opinion paragraph

(a) The opinion paragraph must include a sentence which covers at least the points listed in the following illustration: "In my opinion, the amounts carried in the balance sheet on account of the items identified above:

1. Are computed in accordance with generally accepted loss reserving practices and are fairly stated in accordance with sound loss reserving principles;
2. Are based on factors relevant to policy provisions;
3. Meet the requirements of the insurance laws of (state of domicile); and
4. Make a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements."

i. Reasonable in (a)4 above shall mean with good and sufficient reason, being in the judgment of the actuary neither inadequate nor excessive.

(b) If there has been any material change in the assumptions and/or methods from those of previous statements of opinion, that change should be described in the statement of opinion by inserting a phrase such as: "A material change in assumptions (and/or methods) was made during the past year, but such change accords with accepted loss reserving practices." A description of the change should follow, including how it affects reserve amounts.

(c) If unable to form an opinion, the actuary should refuse to issue a statement of opinion. If the opinion is adverse or qualified, the actuary should issue an adverse or qualified opinion explicitly stating the reason(s) for such opinion.

11:1-21.5 Exemptions

(a) The Commissioner will only consider two circumstances under which an exemption from the requirements of this subchapter may be granted. An exemption request is only appropriate for small companies or due to the nature of the business. An insurer which intends to file for exemption shall submit a letter of intent to the Commissioner no later than December 1 of the calendar year for which the exemption is to be claimed. The Commissioner may deny the exemption in writing prior to December 31 of the same year if the exemption does not meet the requirements set forth below. A certified copy of the approved exemption shall be filed with the Annual Statement in all jurisdictions in which the company is authorized. Unless the Commissioner finds that an insurer is or may be in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3, an exemption may be granted in accordance with the following requirements:

1. An insurer otherwise subject to these rules has less than \$1,000,000 total direct plus assumed written premiums during a calendar year. In lieu of the opinion required for that calendar year for which the exemption is to be claimed, the insurer may submit an affidavit under oath of an officer of the insurer that specifies that amount of direct plus assumed premiums written.

2. An exemption based on the nature of the business may be granted upon application to the Commissioner from an insurer otherwise subject to this subchapter and not eligible for the exemption in (a)1 above, if the nature of business written by the insurer includes only the following lines:

- i. Fires;
- ii. Allied lines;
- iii. Automobile physical damage;
- iv. Glass;

v. Burglary and theft; and

vi. Boiler and machinery.

New Rule, R.1996 d.80, effective February 20, 1996.
See: 27 N.J.R. 3556(a), 28 N.J.R. 1212(a).

SUBCHAPTER 21A. ACTUARIAL OPINION AND MEMORANDUM FOR LIFE/HEALTH INSURERS

11:1-21A.1 Purpose and scope

(a) The purpose of these rules is to prescribe:

1. Guidelines and standards for statements of actuarial opinion and for memoranda in support thereof;
2. Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from submitting an asset adequacy analysis pursuant to this subchapter; and
3. Rules applicable to the appointment of an appointed actuary.

(b) These rules shall apply to all insurers authorized or admitted to transact life, accident and health or annuity business in this State, all fraternal benefit societies doing business in this State pursuant to N.J.S.A. 17:44A-1 et seq., and to all such insurers and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State.

(c) These rules shall apply to all annual statements filed with the Commissioner on or after November 20, 1995. Except with respect to companies which are exempted pursuant to N.J.A.C. 11:1-21A.4, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with N.J.A.C. 11:1-21A.6, and a memorandum in support thereof in accordance with N.J.A.C. 11:1-21A.7, shall be required each year. Any company so exempted shall file a statement of actuarial opinion pursuant to N.J.A.C. 11:1-21A.5.

(d) Notwithstanding (c) above, the Commissioner may require any company otherwise exempt pursuant to this subchapter to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with N.J.A.C. 11:1-21A.6 and 21A.7 if, in the opinion of the Commissioner, an asset adequacy analysis is necessary with respect to the company.

11:1-21A.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, except where the context clearly indicates otherwise.

"Actuarial opinion" means:

1. With respect to N.J.A.C. 11:1-21A.6, 21A.7 or 21A.8, the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance both with N.J.A.C. 11:1-21A.6 and with actuarial standards accepted at the time of rendering the opinion;

2. With respect to N.J.A.C. 11:1-21A.5, the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance both with N.J.A.C. 11:1-21A.5 and actuarial standards accepted at the time of rendering the opinion which specifically relate to this opinion.

"Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

"Alien company" means a company formed under the laws of any country other than the United States, its states, districts, territories, commonwealths, and possessions.

"Annual Statement" means that statement required by N.J.S.A. 17:23-1, 17B:21-1 and 17:44A-34, as applicable, to be filed by the company with the Commissioner annually.

"Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in N.J.A.C. 11:1-21A.3(f) to provide the actuarial opinion and supporting memorandum as required by this subchapter.

"Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in N.J.A.C. 11:1-21A.3(g). This analysis may include, but shall not be limited to, cash flow testing, sensitivity testing or applications of risk theory.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Company" means an insurer, fraternal benefit society or reinsurer subject to the provisions of this subchapter.

"Foreign company" means a company formed under the laws of a jurisdiction of the United States, other than this State.

"Fraternal benefit society" is as defined at N.J.S.A. 17:44A-1.

"Insurer" means any person or entity authorized to transact life, accident or health, or annuities business in this State or authorized to reinsure such business in this State in accordance with Title 17 or 17B of the New Jersey Statutes.

"NAIC" means the National Association of Insurance Commissioners.

"Non-investment grade bonds" are those designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office.

"Qualified actuary" means any individual who meets the requirements set forth in N.J.A.C. 11:1-21A.3(e).

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

11:1-21A.3 General requirements

(a) There shall be included on or attached to Page 1 of the annual statement for each year, beginning with 1995, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with N.J.A.C. 11:1-21A.6; provided, however, that any company exempted pursuant to N.J.A.C. 11:1-21A.4 from submitting a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with N.J.A.C. 11:1-21A.5.

(b) If in the previous year a company provided a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.5, and in the current year fails the exemption criteria of N.J.A.C. 11:1-21A.4(c), (d) or (g) to again provide an actuarial opinion in accordance with N.J.A.C. 11:1-21A.5, the statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.5 as part of the annual statement with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6.

(c) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(d) Upon written request by the company, the Commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

(e) For purposes of this subchapter, a "qualified actuary" is an individual who:

1. Is a member in good standing of the American Academy of Actuaries;

2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries

qualification standards for actuaries signing such statements;

3. Is familiar with the valuation requirements applicable to life and health insurance companies;

4. Has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), following notice and opportunity for a hearing, to have:

i. Violated any provision of, or any obligation imposed by, the insurance laws or other law in the course of his or her dealings as a qualified actuary;

ii. Been found guilty of fraudulent or dishonest practices;

iii. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

iv. Submitted to the Commissioner during the past five years, pursuant to this subchapter, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the provisions of this subchapter, including standards set by the Actuarial Standards Board; or

v. Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

5. Has not failed to notify the Commissioner of any action taken by any commissioner of any other state similar to that under (e)4 above.

(f) For purposes of this subchapter, an "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this subchapter, either directly by or by the authority of the board of directors through an executive officer of the company. The company shall give the Commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in (e) above. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the Commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in (e) above. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(g) The asset adequacy analysis required by this subchapter shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and to any additional standards under this subchapter, which standards are to form the basis of the statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6, and shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

(h) The statement of actuarial opinion shall apply to all in force business on the statement date regardless of when or where issued (for example, reserves of Exhibits 8, 9 and 10, and claim liabilities in Exhibit 11, Part I of the Appendix incorporated herein by reference, and equivalent items in the separate account statement or statements).

(i) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in N.J.S.A. 17B:19-8b, e, f and g, N.J.S.A. 17B:19-5, and N.J.A.C. 11:4-6, the company shall establish such additional reserve.

1. For years ending prior to December 31, 1997, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

i. For the year ending December 31, 1995, the additional reserve divided by three.

ii. For the year ending December 31, 1996, two times the additional reserve divided by three.

(j) Additional reserves established under (i) above and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves shall not be deemed an adoption of a lower standard of valuation.

11:1-21A.4 Required opinions

(a) Every company doing life, health or annuities business in this State shall annually submit the opinion of an appointed actuary as provided for by this subchapter. The type of opinion submitted shall be determined by the provisions set forth in this section and shall be in accordance with the applicable provisions in this subchapter.

(b) For purposes of this subchapter, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:

1. Category A shall consist of those companies whose admitted assets do not exceed \$20 million;

2. Category B shall consist of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;

3. Category C shall consist of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million; and

4. Category D shall consist of those companies whose admitted assets exceed \$500 million.

(c) Any Category A company that, for any year beginning with 1995, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for the year in which these criteria are met. The ratios in (c)1, 2 and 3 below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.
2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.
3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.
4. The Examiner Team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the company's state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(d) Any Category B company that, for any year beginning with 1995, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for the year in which the criteria are met. The ratios in (d)1, 2 and 3 below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.
2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40.
3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.
4. The Examiner Team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year in which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the company's state of domicile and the commis-

sioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(e) Any Category A or Category B company that meets all of the criteria set forth in (c) and (d) above, whichever is applicable, shall be exempted from submission of a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6, unless the Commissioner specifically indicates to the company that the exemption may not be taken.

(f) Any Category A or Category B company that, for any year beginning with 1995, is not exempted pursuant to (e) above, shall be required to submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for the year for which it is not exempt.

(g) Any Category C company that, after submitting an opinion in accordance with N.J.A.C. 11:1-21A.6, meets all of the following criteria shall not be required, unless required in accordance with (h) below, to submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 more frequently than every third year. Any Category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for that year. The ratios in (g)1, 2 and 3 below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05.
2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .50.
3. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50.
4. The Examiner Team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the company's state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(h) Any company which is not required by this section to submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for any year shall submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.5 for that year unless, as provided for by N.J.A.C. 11:1-21A.1(d), the Commissioner requires a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6.

(i) Every Category D company shall submit a statement of actuarial opinion in accordance with N.J.A.C. 11:1-21A.6 for each year beginning with 1995.

11:1-21A.5 Statement of actuarial opinion not including an asset adequacy analysis

(a) The statement of actuarial opinion required by this section shall consist of the following:

1. A paragraph identifying the appointed actuary and his or her qualifications;

2. A regulatory authority paragraph stating that the company is exempt pursuant to this subchapter from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with this section;

3. A scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and

4. An opinion paragraph expressing the appointed actuary's opinion as required by this subchapter.

(b) The following language is that which in typical circumstances shall be included in a statement of actuarial opinion in accordance with this section. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

1. The opening paragraph should indicate the appointed actuary's relationship to the company.

i. For a company actuary, the opening paragraph of the actuarial opinion should read as follows: "I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies."

ii. For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as: "I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies."

2. The regulatory authority paragraph should include a statement such as the following: "Said company is exempt pursuant to Regulation [insert designation] of the [name of state] Insurance Department from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with N.J.A.C. 11:1-21A.5 [or cite equivalent section]."

3. The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31. []." The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include, but not be limited to:

i. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 8 in the Appendix;

ii. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9 in the Appendix;

iii. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10 in the Appendix; and

iv. Policy and contract claims—liability end of current year included in Exhibit 11, Part I in the Appendix.

4. If the appointed actuary has examined the underlying records, the scope paragraph should also include the following: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."

5. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:

"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary;" or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

The statement of the person certifying shall follow the form indicated by (b)10 below.

6. The opinion paragraph should include the following:

"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:

- i. Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this section;
- ii. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- iii. Meet the requirements of the insurance laws and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
- iv. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below; and
- v. Include provision for all actuarial reserves and related statement items which ought to be established.

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Compliance Guidelines as promulgated by the Actuarial Standards Board, which guidelines form the basis of this statement of opinion."

7. The concluding paragraph shall document the eligibility for the company to provide an opinion as provided by this section, and shall include the following: "This opinion is provided in accordance with N.J.A.C. 11:1-21A.5 [or cite equivalent section]. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them. Eligibility for this section is confirmed as follows:

- i. The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criteria based on the admitted assets of the company (N.J.A.C. 11:1-21A.4(c) through (h)).
- ii. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (N.J.A.C. 11:1-21A.4(c) through (h)).
- iii. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.

iv. To my knowledge, the NAIC Examiner Team has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the company's state of domicile.

v. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion."

Below the paragraph, the following information shall be included: the signature of appointed actuary; the address of appointed actuary; and the telephone number of appointed actuary.

8. If there has been any change in the actuarial assumptions from those previously employed, that change shall be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference in (b)6iv above to consistency should read as follows: ". . .with the exception of the change described on Page [] of the annual statement (or in the preceding paragraph)."

i. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities shall not be deemed a change in actuarial assumptions within the meaning of this paragraph.

9. If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

10. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following: "I [name of firm], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [], prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete." The following shall be listed below this statement:

- i. The signature of the officer of the company or accounting firm;

ii. The address of the officer of the company or accounting firm; and

iii. The telephone number of the officer of the company or accounting firm.

11:1-21A.6 Statement of actuarial opinion based on an asset adequacy analysis

(a) The statement of actuarial opinion submitted in accordance with this section shall consist of:

1. A paragraph identifying the appointed actuary and his or her qualifications in the format set forth in (b)1 below;

2. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis in the format set forth in (b)2 below, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

3. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions (for example, anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios as set forth in (b)3 below, supported by a statement of each such expert in the form prescribed in (e) below);

4. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities in the format set forth in (b)6 below; and

5. One or more additional paragraphs as may be needed in individual company cases as follows:

i. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

ii. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

iii. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;

iv. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

v. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; and

vi. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(b) The following paragraphs shall be included in the statement of actuarial opinion in accordance with this section. The language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

1. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

i. For a company actuary, the opening paragraph of the actuarial opinion should read as follows: "I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

ii. For a consulting actuary, the opening paragraph should contain a sentence such as: "I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

2. The scope paragraph shall include a statement such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19[]. Tabulated below are those reserves and related actuarial items which have been subject to asset adequacy analysis."

i. The tabulation of reserves and related actuarial items included in the scope paragraph shall be in the format of Exhibits 8, 9, 10 and 11, set forth in the Appendix to these rules and incorporated herein by reference.

3. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as the following:

i. "I have relied on [name], [title] for [for example, anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, ..."; or

ii. "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts in the form prescribed by (e) below.

4. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

5. If the appointed actuary has not examined underlying records, but has relied upon listings and summaries of policies in force and/or asset records prepared by the company or a third party, the reliance paragraph shall include a sentence such as:

"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary"; or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a statement shall be accompanied by a statement by each person relied upon in the form prescribed in (e) below.

6. The opinion paragraph shall include the following:

i. "In my opinion the reserves and related actuarial values concerning the statement items identified above:

(1) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles.

(2) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and meth-

od, and are in accordance with all other contract provisions;

(3) Meet the requirements of the insurance laws and regulations of the state of [company's state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(4) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

(5) Include provision for all actuarial reserves and related statement items which ought to be established;"

ii. "The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company;"

iii. "The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion;"

iv. One of the following as applicable:

(1) "This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion"; or

(2) "The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: [describe the change or changes];"

v. "The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis"; and

vi. Following the last paragraph of the opinion, the signature of appointed actuary as well as the address and telephone number of appointed actuary.

(c) The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from

a corresponding assumption used for prior new issues or new claims or other new liabilities shall not be deemed a change in actuarial assumptions within the meaning of this section.

(d) If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(e) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

i. "I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19[], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete." The signature, address and telephone number of the officer of the company or accounting firm shall also be listed; or

ii. "I [name of officer], [title], or [name of company, accounting firm or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete." The signature, address and telephone number of the officer of the company, accounting firm or security analyst shall also be listed.

11:1-21A.7 Description of actuarial memorandum including an asset adequacy analysis

(a) The appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under an opinion filed pursuant to N.J.A.C. 11:1-21A.6. The memorandum shall be made available for examination by the Commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the Department subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq., or subject to automatic filing with the Commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of N.J.A.C. 11:1-21A.3(e), with respect to the areas covered in such memoranda, and so state in their memoranda.

(c) If the Commissioner requests a memorandum and no such memorandum exists or if the Commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this subchapter, the Commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Commissioner.

(d) The reviewing actuary shall have the same status as an examiner pursuant to N.J.S.A. 17:23-20 et seq. for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this subchapter for any one of the current year or the preceding three years. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential and shall not be subject to public inspection or copying pursuant to the "Right to Know" law, N.J.S.A. 47:1A-1 et seq. However, the memorandum or other material may otherwise be released by the Commissioner with the written consent of the company involved, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Notwithstanding this subsection, once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum shall no longer be deemed confidential.

(e) When an actuarial opinion under N.J.A.C. 11:1-21A.6 is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in N.J.A.C. 11:1-21A.3(g) and any additional standards under this subchapter. The memorandum shall specify:

1. For reserves:

i. Product descriptions, including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

- ii. Source of liability in force;
 - iii. Reserve method and basis;
 - iv. Investment reserves; and
 - v. Reinsurance arrangements;
2. For assets:
- i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
 - ii. Investment and disinvestment assumptions;
 - iii. Source of asset data; and
 - iv. Asset valuation bases;
3. The analysis basis, including, but not limited to:
- i. Methodology;
 - ii. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;
 - iii. Rationale for degree of rigor in analyzing different blocks of business;
 - iv. Criteria for determining asset adequacy; and
 - v. Effect of Federal income taxes, reinsurance and other relevant factors;
4. A summary of results; and
5. Conclusion(s).

(f) The memorandum shall include the following statement: "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

11:1-21A.8 Additional considerations for analysis

(a) For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with N.J.A.C. 11:1-21A.6, reserves and assets may be aggregated by either of the following methods:

1. Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated; or

2. Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the

reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

- i. Are developed using consistent economic scenarios, or
- ii. Are subject to mutually independent risks, that is, the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

3. In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of the method set forth in (a)1, (a)2i or (a)2ii above, whichever is applicable, and describe the aggregation in the supporting memorandum.

(b) The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves may not support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in (c) below. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency shall be described in the supporting memorandum.

(c) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(d) For the purpose of performing the asset adequacy analysis required by this subchapter, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary shall consider in the analysis the effect of at least the following interest rate scenarios:

- 1. Level with no deviation;
- 2. Uniformly increasing over 10 years at one-half percent per year and then level;

3. Uniformly increasing at one percent per year over five years and then uniformly decreasing at one percent per year to the original level at the end of 10 years and then level;

4. An immediate increase of three percent and then level;

5. Uniformly decreasing over 10 years at one-half percent per year and then level;

6. Uniformly decreasing at one percent per year over five years and then uniformly increasing at one percent per year to the original level at the end of 10 years and then level; and

7. An immediate decrease of three percent and then level.

i. For the above and other scenarios which may be used, projected interest rates for a five year Treasury Note need not be reduced beyond the point where the five year Treasury Note yield would be at 50 percent of its initial level.

ii. The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. The method used to determine the beginning yield curve and associated interest rates shall be specifically defined. The beginning yield curve and associated interest rates shall be consistent for all interest rate scenarios.

(e) The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

11:1-21A.9 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law.

APPENDIX

ASSET ADEQUACY TESTED AMOUNTS RESERVES AND LIABILITIES					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability-Active					
F Disability-Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
Exhibit 11 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3, Line 27)					
TOTAL RESERVES					
IMR (Page _____ Line _____)					
AVR (Page _____ Line _____) (c)					

Notes:

- (a) The additional actuarial reserves are the reserves established under N.J.A.C. 11:1-21A.3(h) or (i).
 (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in N.J.A.C. 11:1-21A.3(g), by means of symbols which should be defined in footnotes to the table.
 (c) Allocated amount.

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

11:1-22.1 Scope; definitions

(a) This subchapter shall apply to all commercial insurance policies which are in force, issued or renewed on or after the effective date of this subchapter by companies licensed to do business in this State except workers' compensation insurance and forgery bonds, ocean marine and aviation insurance and accident and health insurance and any policy written by a surplus lines insurer. This subchapter shall not be applicable to multi-state location risks.

(b) This subchapter shall also apply to all policies of homeowners' insurance as defined at N.J.A.C. 11:2-41.2 which are in force, issued or renewed on or after January 17, 1995.

(c) These rules are not exclusive, and the Commissioner may also consider other provisions of statutes and regulations to be applicable to the circumstances or situations addressed herein.

(d) For the purposes of this subchapter, the terms "block" and "class" shall mean any group of insureds, however defined or designated, to which a common plan or program of cancellation or nonrenewal applies. A class may include one or more blocks.

Amended by R.1987 d.114, effective February 17, 1987.

See: 18 N.J.R. 2301(b), 19 N.J.R. 359(a).

Amended by R.1995 d.52, effective January 17, 1995.

See: 26 N.J.R. 4303(a), 27 N.J.R. 363(a).

11:1-22.2 Prohibitions

(a) The following acts or practices are specifically prohibited with respect to those policies subject to the provisions of this subchapter:

1. Effecting or attempting to effect a mid-term premium increase and/or a reduction in the amount or type of coverage provided under the policy unless prior written approval therefor has been obtained from the Commissioner.

2. Block nonrenewing entire lines or classes of insurance, except pursuant to a plan submitted to the Commissioner at least 60 days in advance of its implementation date which is not disapproved within 30 days after its filing with the Commissioner. For the purpose of this paragraph, the termination or attempted termination of an appointed agent solely to achieve the block nonrenewal of entire lines or entire classes of insurance shall be deemed a nonrenewal subject to this paragraph.

3. Block cancelling entire lines of insurance or classes of business except pursuant to a plan approved by the Commissioner. For the purposes of this paragraph, the termination or attempted termination of an appointed agent solely to achieve the block cancellation of entire lines of insurance or entire classes of business shall be deemed a cancellation subject to this paragraph.

(b) Notwithstanding (a)2 and (a)3 above, an insurer may cancel or nonrenew a line or class of business where such cancellation or nonrenewal is necessary because of loss or substantial changes in applicable reinsurance by filing a plan with the Commissioner pursuant to the requirements of this subsection. The insurer's plan must be filed with the Commissioner at least 10 days prior to the issuance of any notice of cancellation or nonrenewal.

1. Any such plan shall contain a certification by an elected officer of the company:

- i. That the loss or substantial change in applicable reinsurance or the financial condition of the reinsurer necessitates the cancellation or nonrenewal action;

- ii. That the insurer has made a good faith effort to obtain replacement reinsurance but was unable to do so due to either the unavailability or unaffordability of replacement reinsurance;

- iii. Identifying the category of risks, the total number of risks written by the company in that category, and the number of risks intended to be cancelled or nonrenewed;

- iv. Identifying the total amount of the insurer's net retention for the risks intended to be cancelled or nonrenewed;

- v. Identifying the total amount of risk ceded to each reinsurer and the portion of that total that is no longer available;

- vi. Explaining how the loss of or reduction in reinsurance affects the company's risks throughout the entire line or category or insurance proposed for cancellation and/or nonrenewal;

- vii. Explaining why cancellation and/or nonrenewal is necessary to cure the loss of or reduction in available reinsurance; and

- viii. Explaining how the cancellations or nonrenewals, if approved, will be implemented with respect to individual risks and the steps that will be taken to ensure that the cancellation/nonrenewal decisions will not be applied in an arbitrary, capricious or unfairly discriminatory manner.